

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Axel HUEGLE et al.

Serial No.: 10/554,419

Filed: October 24, 2005

For: Operating Device

Examiner: Smith, Matthew J.
Group Art: 3635

Mail Stop **Appeal Brief - Patents**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

SIR:

This is appellant's Reply Brief in response to the Examiner's Answer mailed August 18, 2010, pursuant to 37 C.F.R. § 41.41.

In this Reply Brief, appellant will address the statements made by the Examiner in section (10) Response to Argument of Examiner's Answer.

At page 7, lines 1-4 of the Examiner's Answer, the Examiner takes the position that appellants' assertion "that the first cylindrical guide extending from the rear side of the front element is not convincing". According to the Examiner, "[the housing 1 recess is] defined by the area button 10 when button 10 is pushed. At the top of the housing is a shoulder portion for the flange on button 10. The portion extending downward from this shoulder is considered the first cylindrical guide extending from the rear side of front element or housing 1". (Emphasis Added)

Appellant disagrees that *Hollweck* teaches or suggests the expressly recited subject matter of independent claim 16.

Under the Examiner-proffered construct of the *Hollweck* device, the downwardly extending wall of the *Hollweck* housing (1) corresponds to appellants' claim 16 recited "recess having a first cylindrical guide extending from the rear side of the front element to form a first contact face on said front element". However, the proffered analysis – which in any event applicants dispute – disregards other recitations of independent claim 16.

Independent claim 16 provides a positional relationship between two contact surfaces (i.e., the first and second contact surfaces) associated with the claimed operating element and the front element, respectively. Specifically, independent claim 1 recites "the operating element comprising a flat second contact face which faces the first contact face and is configured such that it is in contact with the first contact face in a non-actuated position". Independent claim 16 additionally recites, "the second contact face being arranged to be removed from the first contact face upon actuation".

Under the Examiner-proffered analysis, the *Hollweck* device can not be construed to meet the above positional relationship between the claimed first and second contact surfaces. Independent claim 16 additionally requires "a first cylindrical guide extending from the rear side of the front element to form a first contact face on said front element". The Examiner identified portion of the *Hollweck* housing, which allegedly forms the claimed cylindrical guide of independent claim 16, does not form a contact face on the rear of the housing element while extending from the rear of the front element. Thus, upon actuation of the *Hollweck* device, the second contact face of the push button (10) (which the Examiner asserts corresponds to the operating element of independent claim 16) is never removed from the first contact face of the housing (1) (which the Examiner asserts corresponds to the front element of independent claim 16), because there is no first cylindrical guide extending from the rear side of the front element

that forms a first contact face on the front element in the *Hollweck* device at the location identified by the Examiner. At best, the push button (10) of *Hollweck* continually slides along the inner cylindrical surface of the housing (1), i.e., the Examiner identified portion extending downwardly from the shoulder at the top of the housing 1. In view of the above, the Examiner's proffered analysis ignores key salient aspects of independent claim 16.

It therefore follows that *Hollweck* fails to disclose, teach or suggest "an operating element", "a front element comprising an operator-side front side and rear side, "a recess in the front element, said recess having a first cylindrical guide extending from the rear side of the front element to form a first contact face on said front element...", "the operating element comprising a flat second contact face which faces the first contact face and is configured such that it is in contact with the first contact face in a non-actuated position" and "the second contact face being arranged to be removed from the first contact face upon actuation, wherein the first contact face on the rear side of the front element is of annular and flat configuration", as recited in independent claim 16.

Dependent claims 17-19 and 21-28 depend from independent claim 16. Therefore, dependent claims 17-19 and 21-28 are also patentable over *Hollweck* for the reasons set forth above, as well as for the additional recitations contained therein.

Accordingly, the Final Rejection of the pending claims 16-19 and 21-28 should be reversed.

Respectfully submitted,
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